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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64371

JOSEPH WILLIAM FOECKING, PT
6710 Courtney Park Road, #8103
Charlotte, North Carolina 28217

A C C U S A T I O N

Physical Therapist No. PT 24116

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about April 12, 1999, the Physical Therapy Board of California issued Physical Therapist Number PT 24116 to Joseph William Foecking, PT (Respondent). The Physical Therapist was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2007, unless renewed.

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3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2660 of the Code states in relevant part:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes , but is not limited to, . . .the following causes:

(1) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.”

5. Section 2661.5 of the Code states:

(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

(c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's

1 decision shall be conclusive proof of the validity of the order of payment and the
2 terms for payment.

3 (e) (1) Except as provided in paragraph (2), the board shall not renew
4 or reinstate the license or approval of any person who has failed to
5 pay all of the costs ordered under this section.

6 (2) Notwithstanding paragraph (1), the board may, in its
7 discretion, conditionally renew or reinstate for a maximum of one
8 year the license or approval of any person who demonstrates
9 financial hardship and who enters into a formal agreement with the
10 board to reimburse the board within that one year period for those
11 unpaid costs.

12 (f) All costs recovered under this section shall be deposited in the
13 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
14 costs are actually recovered or the previous fiscal year, as the board may direct.

15 6. Section 141 of the Code states:

16 “(a) For any licensee holding a license issued by a board under the jurisdiction of
17 the department, a disciplinary action taken by another state, by any agency of the federal
18 government, or by another country for any act substantially related to the practice regulated by
19 the California license, may be a ground for disciplinary action by the respective state licensing
20 board. A certified copy of the record of the disciplinary action taken against the licensee by
21 another state, an agency of the federal government, or another country shall be conclusive
22 evidence of the events related therein.

23 “(b) Nothing in this section shall preclude a board from applying a specific
24 statutory provision in the licensing act administered by that board that provides for discipline
25 based upon a disciplinary action taken against the licensee by another state, an agency of the
26 federal government, or another country.”

27 7. Section 495 of the Code states:

28 “Notwithstanding any other provision of law, any entity authorized to issue a

1 license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder
2 thereof, for any act that would constitute grounds to suspend or revoke a license or certificate.
3 Any proceedings for public reproof, public reproof and suspension, or public reproof and
4 revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of
5 Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], or in
6 the case of a licensee or certificate holder under the jurisdiction of the State Department of
7 Health Services, in accordance with Section 100171 of the Health and Safety Code.

8 CAUSE FOR DISCIPLINE
(Out of State Discipline)
9 [Bus. & Prof. Code Section 141 (a)]

10 8. Respondent is subject to disciplinary action under section 141 (a) of the
11 Code in that he has been subjected to discipline by the Board of Physical Therapy, Department of
12 Health, of the State of Washington. The circumstances are as follows:

13 9. On or about July 19, 2005, respondent entered into Stipulated Findings of
14 Fact, Conclusions of Law, and Agreed Order with the State of Washington, Department of
15 Health, Board of Physical Therapy (hereafter "Washington Board") in Docket No. 04-06-A-
16 1042PT (hereinafter referred to as "Stipulation and Order"). The Washington Board found that
17 respondent had submitted an application for license as a Physical Therapist in the State of
18 Washington on or about March 11, 2004. The Washington Board further found that, prior to
19 making his application for licensure as a Physical Therapist in the State of Washington, during
20 the period from in about October 2003 through March of 2004, while employed at Evergreen
21 Hospital Medical Center in Kirkland, Washington, respondent had represented himself as a
22 licensed Physical Therapist, using the designation "P.T." after his name, and had provided or
23 performed physical therapy for patients, while not licensed as a Physical Therapist in that state.
24 The Washington Board found that respondent's conduct was unprofessional conduct in violation
25 of Washington statutes regulating the practice of Physical Therapy. By Stipulation and Order the
26 Washington Board denied respondent's application for licensure and ordered that the denial shall
27 remain in effect for a period of one year, after which respondent would be entitled to reapply for
28 licensure as a Physical Therapist in the State of Washington. Respondent was also required to

1 pay a fine of \$1,000.

2 SECOND CAUSE FOR DISCIPLINE
3 (Fraudulent, Dishonest or Corrupt Act)
4 [Bus. & Prof. Code Section 2660 (I)]

5 10. Complaint re-alleges paragraph 9, above, and incorporates it by reference
6 herein as if fully set forth at this point.

7 11. Respondent is subject to discipline under Section 2660 (I) of the Code in
8 that the conduct for which he was subjected to discipline by the Board of Physical Therapy,
9 Department of Health, State of Washington, constitutes a fraudulent, dishonest or corrupt act
10 substantially related to the qualifications, functions or duties of a Physical Therapist._____

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Physical Therapy Board of California issue a
14 decision:

15 1. Revoking or suspending Physical Therapist Number PT 24116, issued to
16 Joseph William Foecking, PT; or, ordering that he be subject to Public Reprimand.

17 2. Ordering Joseph William Foecking, PT to pay the Physical Therapy Board
18 of California the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code section 2661.3;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: May 15, 2006

22 Original Signed By:
23 STEVEN K. HARTZELL
24 Executive Officer
25 Physical Therapy Board of California
26 Department of Consumer Affairs
27 State of California, Complainant